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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,993	05/03/2006	Werner Runft	R.304987	4907

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EXAMINER

TRUONG, THANH K

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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10/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,993	Applicant(s) RUNFT ET AL.	
	Examiner Thanh K. Truong	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,10,12-14,17,18,20,22,23,25,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,10,12-14,17,18,20,22,23,25,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is in response to applicant's amendment received on August 8, 2007.
2. Applicant's cancellation of claims 1-8, 11, 15, 16, 19, 21, 24 and 26 is acknowledged.
3. Examiner's note: in light of the new reference, the allowable subject matter indicated in the previous office action is hereby withdrawn, and thus this is a non-final office action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 seems to repeat the limitation, which already recited in claim 1, and thus it is indefinite for it is not further limited the claimed invention.

Claim 13 and 14 recited: "wherein adjacent guide flaps are separated from one another by a gap which is defined by a shoulder". The phrase "a shoulder" is not support by the specification and thus it is indefinite. It is believed that "an annular shoulder" is quite different than "a shoulder".

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 10, 12, 13, 14, 17, 18, 20 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ribani et al. (5,966,910) in view of Yamamoto et al. (5,018,335).

Ribani et al. discloses an apparatus comprising: a capsule delivery device (2), which has receptacles (1), each for one capsule, and having at least one capsule expulsion station (10), which includes

a capsule expulsion device (101) for axially expelling the capsules each out of their respective receptacle;

guide flaps (106), individually controllable by means of an actuating device (114) and pivotable with respect to a pivot shaft (110), which are each assigned to one capsule receptacle and each have two guideways (103, 108), triggerable by means of the actuating device, for the respective associated capsules, and

partitions, which separate the guideways of adjacent guide flaps from one another (figure 1 shows a plurality of guideways parallel to each other and separated by partitions), wherein the partitions are each an integrated component of a respective guide flap (it is construed that the guide flap 106 and

the partitions on both sides of the guide flap are joining together into an unit – integrated component).

Ribani et al. discloses the claimed invention, but it does not expressly disclose the guide flaps cooperate with two rows of capsule receptacles.

Yamamoto et al. discloses an apparatus comprises a plurality of rows of capsule receptacles to provide means to handle a larger volume of capsules and thus increasing productivity.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Ribani et al. by incorporating the multiple rows of capsule receptacle as taught by Yamamoto et al. to provide means to increasing production capability.

Ribani et al. modified by Yamamoto et al. further discloses:

Regarding claim 10, the guide flaps are supported on a common pivot shaft (110).

Regarding claims 13-15, as best understood, the adjacent guide flaps are separated from one another across a gap which is the thickness of the partition itself.

Regarding claims 17-21, the expulsion device comprises a plurality of tappets (101) which are assigned one to each capsule receptacle (Figure 20).

Regarding claim 28, wherein the actuating device for the guide flaps cooperates with at least one inspection station for the capsules (column 8, lines 9-15).

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7. Claims 22, 23, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ribani et al. (5,966,910) in view of Yamamoto et al. (5,018,335).

8. As discussed above, Ribani et al. modified by Yamamoto et al. discloses the claimed invention, but it does not expressly disclose that the guide flaps are triggered by a pneumatic cylinder.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have modified Ribani et al. so that a pneumatic cylinder are used to actuate the guide flap because Applicant has not disclosed that using pneumatic cylinder (instead of an electrical actuator) provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with an electrical actuator because an electrical actuator as taught by Ribani et al. would perform equally well.

Therefore, it would have been an obvious matter of design choice to modify Ribani et al. to obtain the invention as specified in claims 22-27 – pneumatic cylinder to actuate the guide flap.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

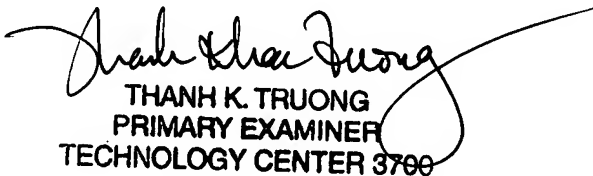
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkf
October 27, 2007.


THANH K. TRUONG
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700